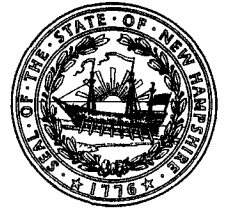




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

November 15, 2005

Belknap County Department of Corrections
Attn: Joseph R. Panarello, Superintendent
76 County Drive
Laconia, NH 03246-2685

Re: Docket No. AF 05-044 – Belknap Department of Corrections

Dear Mr. Panerello:

Enclosed for your records is a copy of the fully executed and accepted Motion to Accept Settlement Agreement in the above-captioned matter.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,
COPY
Michael P. Solafani,
Legal Assistant

cc: Anthony P., Giunta, P.G., Director, Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
DES Public Information Officer
Lynn Woodard, DES WMD
Tom Beaulieu, DES WMD
Susan Hanamoto, DES WMD

Belknap County Department of Corrections
76 County Drive
Laconia, NH 03246-2685

Re: UST ID#0-113930

**ADMINISTRATIVE FINE
AND LICENSE ACTION
No. AF 05-044**

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Waste Management Division ("the Division") and Belknap County Department of Corrections, parties to the above-captioned matter, and stipulate to the following:

1. The Commissioner of the Department of Environmental Services ("DES"), is authorized under RSA 146-C:10-a to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-C and Env-Wm 1401 relating to installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:10-a, the Commissioner has adopted Env-C 607 to establish the schedule of fines for such violations.
2. Belknap County Department of Corrections ("Belknap DOC") is the registered facility owner of one underground storage tank ("UST") at the Belknap County Department of Corrections facility ("the Facility"), further identified as UST # 0-113930, located on real property at 76 County Drive, Laconia, NH ("the Property"). Walter R. Newcomb signed the Registration for Underground Storage Tank Systems for the Facility, dated March 13, 1995, as the owner's representative.
3. On May 20, 2005, the Division issued Notice of Proposed Administrative Fine No. AF 05-044 ("the Notice") to Belknap DOC seeking fines totaling \$1,200 for violations of New Hampshire Administrative Rules Part Env-Wm 1401.
4. The Notice cited Belknap DOC for violating Env-Wm 1401.13(a) by failing to tightness test the 10,000-gallon #2 fuel oil UST (Tank 2) system since November 9, 1989. Pursuant to Env-C 607.04(a) the Division sought a fine of \$1,000.
5. The Notice further cited Belknap DOC for violating Env-Wm 1401.25(e) by failing to maintain the overfill protection device on Tank 2. Pursuant to Env-C 607.05(j) the Division sought a fine of \$200.
6. In order to settle this matter, the Division and Belknap DOC have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.
7. Of the proposed fine, in the amount of \$1,200, 20% or \$240 shall be suspended due to this being a one-time unintentional violation. An additional 20% or \$240 shall be suspended due to

Belknap DOC's good faith effort to return this Facility to compliance. An additional 20% or \$240 shall be suspended due to Belknap DOC's history of compliance at this Facility.

8. The suspended portion of the proposed fine, in the amount of \$720 is contingent upon Belknap DOC maintaining the subject UST facility in compliance with Env-Wm 1401 for a period of two years from the date of the execution of this Agreement. If Belknap DOC fails to maintain compliance during the two-year period, the suspended portion of the fine, in the amount of \$720 shall become due and payable immediately. If Belknap DOC maintains compliance for the prescribed two-year period, the suspended portion of the fine shall be waived.

9. Belknap DOC agrees to pay the remaining \$480 upon execution of this Agreement by Belknap DOC.

10. Payment under Paragraph #9 and any payment that becomes due pursuant to Paragraph #8 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attention: Michael Sclafani, Legal Assistant
P.O. Box 95
Concord, NH 03302-0095

11. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

12. By executing this Agreement, Belknap DOC waives its right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

13. The effective date of this Agreement will be the date on which it is signed by Belknap DOC, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

14. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,

Belknap County Department of Corrections

COPY

Joseph R. Panarello, Superintendent
Duly Authorized

10/17/05
Date

DES Waste Management Division

COPY

Anthony P. Giunta, P.G., Director

11/8/05
Date

This Motion to Accept Settlement agreement is granted this 14th day of November, 2005.

COPY

Michael P. [Signature], Commissioner
Department of Environmental Services